

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Erstwhile Khammam District- Revision Petition filed by Sri D.Narasimhulu S/o Muthaiah, R/o Hemachandra puram (V) Kothagudem (M), Khammam District now Bhadravati Kothagudem District against the orders in CMA No.90/05, dated 18.11.2006 of Additional Agent to Government, Bhadrachalam, Bhadravati Kothagudem District – Revision Petition Dismissed - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.35

Dated:24-07-2023,
Read the following:-

1. Revision Petition filed by Sri D.Narasimhulu S/o Muthaiah, R/o Hemachandra puram (V) Kothagudem (M), Khammam District, dated 27.12.2006.
2. Govt.Memo.No.15095/TW.LTR/2006 Dt: 31.01.2007.
3. Orders of the Hon'ble High Court in WP No.2009/2007, dated:06.2.2007.
4. From Addl.Agent to Govt., Bhadrachalam, RP No.15095/LTR-2/07-1, (CMA No.90/2005), dated 29.10.2008.
5. Govt.letter No.15095/TW.LTR.2/2006, dated 18.08.2011, 08.01.2015, 27-01-15, 18.03.2015, 26.07.2016, 27.10.2016, 11.01.2017, 06-03-2017, 07.03.2017, 13.04.2017, 30.05.2017, 03.08.2017, 17.10.2017, 12.12.2017, 25.01.2018, 10.04.2018, 21.08.2018 and 26.11.2019.

ORDER:-

In the reference 1st read above, Sri D.Narasimhulu S/o Muthaiah, R/o Hemachandrapuram (V) Kothagudem (M), Khammam District has filed Revision Petition before the Government against the orders passed by the Additional Agent to Government, Bhadrachalam in CMA No.90/05, dated 18.11.2006 in respect of land in Sy.No.158/AA admeasuring Acs.0.22 gts at Hemachandrapuram village, Kothagudem mandal, erstwhile Khammam district, U/s.6 of APSA LTR, 1959 – urging the following grounds:

- i) 1st Respondent (the Additional Agent to Government, Bhadrachalam) not justified in considering the point of disposing the Appeals on the strength of note files submitted by the concerned clerk(s) as pointed by the counsel for petitioner herein by filing an IA, though admitting existence of the note files in the case records and failed to note consider that the said point was even considered by the Hon'ble High Court in Vasudha Mishra's case as reported in 1998 (1) ALT 680 and failed to follow the guidelines issued by the Hon'ble High Court in the said case.
- ii) 1st Respondent failed to consider and appreciate the other defects raised by the counsel for the petitioner herein and failed to give reasons for not considering them and even not pronounced the impugned order in open court on 18.11.2006, only the existence of the impugned order come to the knowledge of the counsel after its receipt on 01.12.2006.
- iii) Order under revision since passed without the written arguments cannot be sustainable in view of the decision of the Hon'ble High Court as reported in 2003 (3) ALT page-127 dated 2005 (2) ALT page-462.
- iv) The 1st respondent ought to have seen that in obedience of the decisions of the Hon'ble Supreme Court of India and the Hon'ble High Court of A.P. cited in the written arguments and as per the facts and circumstances of the case, the authorities under the provisions of Regulation 1/1959 has no jurisdiction to adjudicate and decide the validity/genuineness of the document, consequent possession and title of the revision petitioner, who is in possession of the schedule property long prior to the commencement of the Regulation 1/1970 duly paying land revenue to the Government and ought to have appreciated that it is for the Civil Court to decide such disputes.

(Contd...2)

- v) The 1st respondent failed to appreciate that the 2nd respondent (the Special Deputy Collector (TW), Bhadrachalam) given the date of hearing on 19.4.2005 and passed the order on the same date, even without furnishing the alleged report of the Special Deputy Tahsildar (TW) dated 14.03.2005 and failed to note and consider that the lower court not conducted any trial and passed order in violation of the principles of natural justice.
- vi) The learned 1st respondent totally failed to consider and apply judicial mind to the referred decisions of the Hon'ble High Court of AP and the Hon'ble Supreme Court, and the procedural defects and jurisdiction point in the lower Tribunal file before it and passed orders without giving any reasons for not considering.

2. In the reference 2nd read above, Government had sent a copy of the Revision Petition to the Collector, Khammam district and the Additional Agent to Government, Bhadrachalam, Bhadrachalam) and they were requested to furnish Para Wise Remarks and connected case records.

3. The Revision Petitioner has also filed WP No.2009 of 2007 before the Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad praying not to dispossess him from possession and enjoyment of the schedule property in S.No.158/AA measuring extent of acs.0.22 gts equivalent to acs.0.055 cents situated at Hemachandrapuram village of Kothagudem Mandal, pending disposal of the revision before the Government. The said WP was disposed on 6.2.2007 – operative portion is as follows:

"Para 3. I am not inclined to express any opinion, as admittedly the alleged purchase of the petitioner is not supported by any registered document. However, it is for the revisional authority to consider the rival contentions.

Para 4. Having regard to the facts and circumstances of the case, the Writ Petition is disposed of directing the respondents to consider and dispose of the revision petition dated 27.12.2006 filed by the petitioner and pass appropriate orders after giving reasonable opportunity to all the concerned as expeditiously as possible and pending disposal of the revision petition the petitioner shall not be dispossessed. No order as to costs."

4. In reference 4th read above, the Additional Agent to Government, Bhadrachalam has submitted para-wise remarks and connected case record.

In the reference 5th read above, Govt. issued notices, previously the case was called on;

- 27.08.2011 - The Appellant / Counsel for the Appellant called absent. Adjourned.
- 05.02.2015 - All parties called absent. Adjourned.
- 03.12.2016 - Revision Petitioner/Counsel for Revision Petitioner Respondents called absent. Adjourned with a direction to serve notice and obtain acknowledgement.
- 18.02.2017 - Revision Petitioner/Counsel for Revision Petitioner Respondents called absent. Adjourned with a direction to serve notice and obtain acknowledgement.
- 01.04.2017 - Revision Petitioner called absent. Adjourned.
- 06.05.2017 - Adjourned.
- 24.06.2017 - Absent. Adjourned as a last chance.
- 28.10.2017 - Revision Petitioner and Respondent called absent. Instructions to issue notices through Registered Post with acknowledgement due. Adjourned.
- 20.01.2018 - Adjourned.
- 17.02.2018 - Revision Petitioner and Respondent called absent. Adjourned.
- 21.04.2018 - Adjourned.
- 01.09.2018 - Revision Petitioner and Respondent called absent. Adjourned.

(Contd...3)

5. The case was finally called on 07.12.2019. Counsel for Revision Petitioner submitted oral arguments corroborating grounds urged in the Revision Petitioner.

6. Perused the record.

7. As per orders of Special Deputy Collector (TW) Bhadrachalam in LTR case No.25/2005/KGM, dated 14.3.2005:

The initial LTR case was initiated basing on the report of the Special Deputy Tahsildar (TW):

Sri Kondapalli Satya Prasad S/o Gopala Rao R/o Hemachandra puram (Non-Tribal) was proforma petitioner while 1) Sri Doshapangu Narasimhulu S/o late Muthaiah R/o Hemachandra puram and 2) Kothapalli Venkulu S/o Basavaiah (Non-Tribals) were Respondents. Requisite notices were issued to all the petitioners. Respondent No.1 deposed that the petitioner had given the suit land admeasuring acs 0.20 gts in Sy.No.158/AA situated in Hemachandra puram village of Kothagudem Mandal to him in 1940. They are in possession till to date. No LR was collected as it is dry land. Further, his brother-in-law Sri Kothapalli Venkulu was also having 0.02 gts by side of his land and they are also in possession since 1940. Both deposed that they were not having any documentary evidence as they had not purchased the suit land.

8. The respondent (non-tribal) was found failed to produce any documentary evidence in support of his claim and found that the respondents entered the suit land after enforcement of the Regulation I of 1950 R/W Regulation I of 1970. Therefore, directed the Mandal Revenue Officer, Kothagudem to take the property i.e. acs.0.22 gts situated in Sy.No.158/AA in Hemachandrapuram (v) of Kothagudem Mandal into Government possession.

9. Aggrieved by the above orders, Sri Doshapangu Narasimhulu had filed an Appeal before the Additional Agent to Government, Khammam which was numbered as CMA 99/05 and disposed on 18.11.2006 making the following order:

- Contended that the schedule land was purchased under a sale deed dt.14.4.1956 and filed Photostat copy. It was executed by Kondapalli Gopala Rao (F/o Satya parasad R1) in favour of Doshpangu Narsaiah (appellant) selling the land acs.0.22 gts in Sy.No.158/AA. But, before the lower court, the appellant stated that the land was given by the petitioner in the year 1940 but not having documentary evidence as they did not purchase. Contrary to the said deposition, he stated that it was purchased on 14.4.1956. The alleged sale deed was not filed in the lower court. Therefore, evident that the appellant had created false document and filed Photostat copy. Apart from this, the appellant had not filed any pahani copy for the relevant year to show his possession prior to the commencement of the Regulation. Thus, he failed to prove his rightful possession on the suit schedule.

• Therefore, the Appeal was dismissed confirming lower court order.

10. Upon examination of the Revision Petition with reference to the findings of the lower and appellate authorities, para-wise remarks submitted by the Additional Agent to Government, Bhadrachalam and documentary evidence available on record, it is found that the Revision Petitioner has not come up with any substantiating evidences even before the Government. The Hon'ble High Court has also made an observation while disposing the WP No.2009/2007 on 6.2.2007, that admittedly the alleged purchase of the petitioner is not supported by any registered document, however, it is for the revisional authority to consider the rival contentions. In spite of giving sufficient time i.e. more than (17) years, the Revision Petitioner has failed to prove his case except dragging the case before the authorities since 2005.

11. Government, after careful examination of the matter and do not find any reason to interfere with the orders passed by the Additional Agent to Government, Bhadrachalam in CMA No.90/2005, dated 18.11.2006 and LTR case No.25/2005/KGM, dated 19.4.2005 of the lower authority i.e. Special Deputy Collector (TW), Bhadrachalam and accordingly upheld the same and hereby dismiss the Revision Petition filed by Sri D.Narasimhulu S/o Muthaiah, R/o Hemachandra puram (V) Kothagudem (M), Khammam District now Bhadradi Kothagudem District.

12. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU,
SECRETARY TO GOVERNMENT.

To

The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District.

The Special Deputy Collector (TW), Bhadrachalam, Bhadradi Kothagudem District
Sri D.Narasimhulu S/o Muthaiah, R/o Hemachandra puram (V)
Kothagudem (M), Bhadradi Kothagudem District.

(Through the Tahsildar, Kothagudem Mandal)

Sri Kondapali Satyaprasad S/o Late Gopala Rao(Respondent)
Land Lord R/o Hemachandrapuram Village, Kothagudem Mandal,
Bhadradi Kothagudem District.
(Through the Tahsildar, Kothagudem Mandal)

Copy To:

Sri Nanduri Srinivasa Rao & Sri Komma Raju Srimannarayana, Advocates
(Counsel for the petitioner) Advocates, Bhadrachalam,
Bhadradi Kothagudem District.- 507 111.(By RPAD)

The Tahsildar, Kothagudem Mandal, Bhadradi Kothagudem District.
(service the copy to the concerned and return the served copy to Government)
(By RPAD)

The PS to M(STW).

The PA. to Secretary(TW).

The Special Secretary(TW).

SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER.